

**IN THE UNITED STATES PATENT
AND TRADEMARK OFFICE**

In re Application of:

Michael A. Kapin
David P. Bingaman
Daniel A. Gamache
Gus Graff
John M. Yanni

Group Art Unit: 1614

Examiner: Graffeo, Michel

Atty. Dkt. No.: 1973 US

Serial No.: 09/929,381 (Conf. #1047)

Filed: August 13, 2001

For: METHOD OF TREATING
ANGIOGENESIS-RELATED
DISORDERS

COMMUNICATION

Mail Stop Appeal Brief-Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is submitted in response to the Notice of Non-Compliant Appeal Brief mailed November 30, 2006. The due date for response to the Notice was December 30, 2006.

Appellants provided a corrected Terminal Disclaimer to the Office on December 12, 2006, within the one-month date for response. However, there was no paper accompanying the Terminal Disclaimer indicating that it was provided in response to the Notice of Non-Compliant Appeal Brief. A copy of the Terminal Disclaimer filed on December 12, 2006, along with the electronic receipt evidencing its receipt in the USPTO on the same day is attached hereto as Exhibit A. This paper is filed simply to formalize the response to the Notice of Non-compliant Appeal Brief. It is believed that no fee is due; however, should any fees under 37 CFR §§1.16 to 1.21 be required for any reason, the Commissioner is authorized to deduct said fees from Alcon, Inc. Deposit Account No. 501051.

Serial No.: 09/929,381 (Conf. #1047)

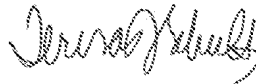
Filed: 13 August 2001

Page 2

This is believed to be a complete response to the Notice of Non-Compliant Appeal Brief.

The Examiner is invited to contact the undersigned attorney at (817) 551-4321 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



Teresa J. Schultz

Reg. No. 40,526

Attorney for Applicants

ALCON RESEARCH, LTD.
6201 S. Freeway, Q-148
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(817) 551-4321

Date:

15 January 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Michael A. KAPIN et al.

Serial No. 09/929,381 (Conf. #1047)

Filed: 13 August 2001

Examiner: Rebecca Cook

Group Art Unit: 1614

For: METHOD OF TREATING ANGIOGENESIS-RELATED DISORDERS

TRANSMITTAL OF FEE UNDER 37 C.F.R. §1.20(d)

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

A terminal disclaimer has been filed herewith. Please charge the \$130.00 fee required under 37 C.F.R. §§ 1.321(b) and 1.20(d) to Deposit Account No. 501051. A duplicate of this paper is attached.

Respectfully submitted,

ALCON RESEARCH, LTD.

12 December 2006
Date

Teresa J. Schultz
Teresa J. Schultz
Reg. No. 40,526

Address for Correspondence:
Teresa J. Schultz
Alcon Research, Ltd.
R&D Counsel Q-148
6201 South Freeway
Fort Worth, TX 76134-2099
Phone: (817) 551-4321

Attorney Docket: 1973 US

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATION**Docket Number (Optional)
1973 US

In re Application of: Michael A. KAPIN et al.

Application No.: 09/929,381 (Conf. #1047)

Filed: 13 August 2001

For: Method Of Treating Angiogenesis-Related Disorders

The owner*, Alcon, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/344,881, filed on 14 February 2003, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 40,526



Signature

12 December 06

Date

Teresa J. Schultz

Typed or printed name

817-551-4321

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).

Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Acknowledgement Receipt

The USPTO has received your submission at **11:57:24** Eastern Time on **12-DEC-2006** by Deposit Account: 501051.

\$ **130** fee paid by e-Filer via *RAM* with Confirmation Number: 1504.

You have also pre-authorized the following payments from your USPTO Deposit Account:

Charge any Additional Fees required under 37 C.F.R. Section 1.16 and 1.17

eFiled Application Information

EFS ID	1367682
Application Number	09929381
Confirmation Number	1047
Title	Method of treating angiogenesis-related disorders
First Named Inventor	Michael A. Kapin
Customer Number or Correspondence Address	R&D Counsel (Q-148) Alcon Universal Ltd. c/o Alcon Research, Ltd. 6201 South Freeway Fort Worth TX 76134-2099 US 8175513066
Filed By	Teresa J. Schultz/Barbara McKenzie
Attorney Docket Number	1973
Filing Date	13-AUG-2001
Receipt Date	12-DEC-2006
Application Type	Utility

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DOCKETING

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AT
#130
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MIR
12/06**Application Details**

Submitted Files	Page Count	Document Description	File Size	Warnings
1973_US_121206.pdf	1	Terminal Disclaimer Filed	131439 bytes	◆ PASS
1973_US_Fee_121206.pdf	1	CRF Statement Paper and CRF are the same	68244 bytes	◆ PASS
fee-info.pdf	2	Fee Worksheet (PTO-875)	8146 bytes	◆ PASS

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the

https://sportal.uspto.gov/secure/PA_1_0_1I1/efswb/jsp/efs0-4-6-1-0.jsp

12/12/2006

conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

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- *If you experience technical difficulties or problems with this application, please report them via e-mail to [Electronic Business Support](#) or call 1 800-786-9199.*